

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Elmer Weber,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 10-77-0179

Parcel No. 241/00993-820-094

On April 7, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Elmer Weber was self-represented. The Polk County Board of Review designated Assistant County Attorney Peter Blink as its legal representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Elmer Weber is the owner of a residentially classified, single-family residence located at 8812 Daybreak Road, Johnston, Iowa. The improvements were partial construction at time of the original protest. Construction began in 2009 prior to the January 1, 2010, assessment. It is unknown exactly what existed as of the January 1, 2010, assessment; however, testimony indicates at least the foundation of the improvements existed. Since the January 1, 2010, assessment the property has been fully improved with a one-story dwelling which has 1633 square feet of total above-grade living area. It has a 1731 square-foot, unfinished basement and a 750 square-foot, attached garage. According to the property owner, the basement is a walk-out. There is also a 196 square-foot enclosed porch at the rear of the home, and a 122 square-foot open porch on the front of the home. The site is 0.344 acres.

The January 1, 2010, assessment of Weber's property was \$106,100, allocated as \$53,200 in land value and \$52,900 in (partial) improvement value. This was an increase over the previous year's assessment. Weber's claim was based on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). He asserted the correct value of the subject property was \$95,400, allocated as \$42,500 to the land and \$52,900 to the improvements.

Weber did not request a hearing at the Board of Review. He did not submit any evidence to the Board of Review, other than the plain statement on his protest which stated "I paid \$42,500 for the lot versus the \$53,200 shown."

The Board of Review denied the protest.

Weber then appealed to this Board reasserting both his claim of over-assessment and that the correct total value was \$95,400.

Weber requested a hearing with this Board, but submitted no new evidence. Weber testified he purchased the lot for \$42,500. The property record card confirms the lot was purchased for \$42,500 in April 2009, by Weber. He purchased his site specifically because of the walk-out capability. He testified that his site has a thirty-foot easement at the rear, making approximately 20% of his site unable to be improved. He was willing to accept this restriction in exchange for the walk-out capability. At hearing, Weber stated did not understand why his lot was assessed for \$53,200 when he only paid \$42,500. He did not object to the value assigned to the partial improvements that existed at the time of the January 1, 2010, assessment.

The Board of Review did not offer any new evidence or testimony and relied solely on the certified record.

The certified record contains an appraiser analysis and a print-out of the immediate development with thirty-eight properties listed. No written analysis of this list was provided by the Board of Review. The appraiser analysis states the subject site is "valued the same as others in the plat. Will be checking land values for 2011. Recommend no change." We note that Weber has a market

value claim before this Board, and not an equity claim. Therefore, the fact that Weber has a similar assessment to other sites is not relevant.

The print-out supplied by the Board of Review has thirty-eight properties, ten of which are reported as having site sales in 2009 or 2010. The subject site sale is included within the ten noted sales. Figure 1 below provides the pertinent information of each site sale from the print-out. The subject property is highlighted.

Figure 1.

Property Address	Owner	Site Size	Sale Price	Sale Date	\$/SF
7323 Dawn Drive	Froehlich	17,867	\$38,000	9/10/2009	\$2.13
7331 Dawn Drive	Clark	15,000	\$38,500	4/19/2010	\$2.57
8812 Daybreak Road	Weber	15,000	\$42,500	4/6/2009	\$2.83
8902 Daybreak Road	Rudd	15,000	\$47,900	5/27/2009	\$3.19
8906 Daybreak Road	Ottley	15,000	\$48,000	7/6/2009	\$3.20
7332 Dusk Drive	Lifestyle Development, Inc.	15,000	\$81,000	4/26/2010	\$5.40
7335 Dusk Drive	Trinity Corporation	15,000	\$39,000	3/4/2010	\$2.60
7343 Dusk Drive	Kinman	15,000	\$43,000	4/3/2010	\$2.87
7401 Dusk Drive	Collins	15,000	\$38,900	3/4/2010	\$2.59
8809 Horizon Road	Winegart	31,340	\$50,000	11/17/2009	\$1.60
					\$2.90

The ten sites sold between April 2009 and April 2010. While five of the sites sold after the January 1, 2010, assessment date they are reasonably recent sales, were available to Weber in April of 2009 for purchase consideration, and were supplied as evidence by the Board of Review. All ten sites have a price per square foot ranging from \$1.60 to \$5.40 and an average of \$2.90 and a median of \$2.72. The sale of 7332 Dusk Drive set the upper end of the range, at \$5.40 per square foot. We note this sale is the only sale which appears to have been purchased by a developer. Given the sales price, it would appear this may be of multiple parcels, however, property record cards of the individual properties were not included for consideration. The last sale on the list, 8809 Horizon Road, set the lower end of the range, but is also the largest site. It is not uncommon for larger sites to have a lower price per square foot. Removing the high and low sales, which appear to be outliers when looking at

the aggregate, reduces the overall price per square foot from \$2.13 to \$3.20. This new range has an average of \$2.75 and a median of \$2.85. Regardless of whether the outliers are included, the subject sites sales price of \$2.83 is comparable to the other sales in the area.

Additionally, considering the raw sales price of the eight sales (excluding high/low outliers), the average is \$41,975, and the median is \$40,750. We find this data supports the sale price of \$42,500 to be the correct market value of the subject site. There was no testimony by either party disputing the value of the improvements, although the total value was disputed.

Based on the foregoing, we find sufficient evidence has been presented to demonstrate the subject is assessed for more than authorized by law, and that the correct total value of the subject property, as of January 1, 2010, is \$95,400.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Weber plainly states the correct value of his site is \$42,500, based upon his purchase price. The Board of Review supplied a print-out with information on all the lots in the subject's immediate development. This print-out included ten sales of sites occurring between April 2009 and April 2010. These ten sales indicate the price paid by Weber for his site is market value.

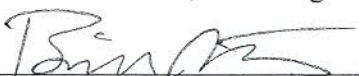
In the opinion of the Appeal Board, the evidence supports the claims that the property's assessment is assessed for more than the value authorized by Iowa Code section 441.21.

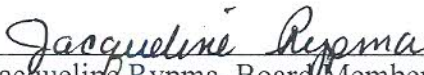
THE APPEAL BOARD ORDERS that the assessment of Elmer Weber's property located at 8812 Daybreak Road, Johnston, Iowa be modified to a total value of \$95,400; representing \$42,500 in land value and \$54,900 to the improvements as of January 1, 2010.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 6 day of May, 2011


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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APPELLANT

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-6</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>John Chappin</i></u>